HONOURABLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

and

HONOURABLE SRI JUSTICE C.Y. SOMAYAJULU

WRIT APPEAL NO : 2460 of 2005

Between:

1 Y.F.S.Chenoy, s/o Faridoom Shorabji Chenoy,
residing at Bungalow No.222.C, Picket, Secunderabad and others.

..... APPELLANTS

AND

1 The Deputy Director, Survey and Land Records,
Collectorate Complex, Nampalli, Hyderabad and others.

.....RESPONDENTS

::JUDGMENT::

Counsel for the Appellants : Mr. SYED SHAREEF AHMED

Counsel for the Respondent Nos. 1 and 2 : GP FOR REVENUE

**Counsel for the Respondent No.3 : Mr. A. Rajasekhar Reddy,
Asst. Solicitor General**

Counsel for the Respondent No.4 : Mr. Deepak Bhattacharjee

Counsel for the Respondent No.5 : P. Udaya Bhaskar Rao

15th December, 2005

HCJ & CYSJ

W.P.No.2460 of 2005

Per C.Y. Somayajulu,J

Appellants, who are the petitioners in the writ petition, claiming to be the owners of Bungalow No.222 C, in G.L.R. No. 485 corresponding to old R.S. No. 47/1 of Revenue Survey No. 110 of Bushireddiguda, Picket, Hamlet of Bholakpur Village, applied for Certified Copies of tippons relating to S.No. 47of Bholakpur Village of Secunderabad Mandal, and made an application for demarcation and fixation of the boundaries of their land, to enable them to take steps for prevention of encroachments on their land. Since their request for demarcation of boundaries was not being complied with by the Survey Officials, they filed Writ petition No. 11207 of 2002 for a direction to the survey officials and the Mandal Revenue Officer for making the survey. The said writ petition was allowed by a learned Single Judge of this Court on 23.1.2003, with a direction to the respondents to take up the demarcation work and complete the said process as expeditiously as possible. In pursuance of the said direction, a joint survey was conducted on 20.9.2003 and a plan was prepared fixing the boundaries of G.L.R. No. 485. Mandal Revenue officer (2nd respondent) seems to have filed an appeal to the Deputy Director of Survey (1st respondent). Thereafter, appellants filed Writ Petition No. 20695 of 2003 seeking a direction to the revenue authorities not to interfere with their land in G.L.R. No.485 in Survey No. 47/1 of Bushireddyguda, hamlet of Bholakpur, alleging interference with their land by the revenue officials. The said petition was allowed by a learned Single Judge of this Court directing the revenue authorities not to take steps contrary to the survey report dated 20.8.2003 till the disposal of the appeal preferred by the 2nd respondent to the 1st respondent, questioning the joint survey. Thereafter, 1st respondent allowed the appeal preferred by the 2nd respondent and cancelled the joint survey done by the Mandal Surveyor and Defence Surveyor and the sketch prepared by them on 20.8.2003 in respect of G.L.R. No. 485 corresponding to Old Survey No. 47/1 of Bholakpur Village vide his proceedings Rc. No. A4/11/2004, dated 17.7.2004. Questioning the said order, appellants filed Writ Petition No. 15807 of 2004 which was disposed of by a learned Single Judge by the order under appeal, by setting aside both the joint survey report dated 20.8.2003 and the proceedings of the Deputy Director, Survey and Land Records, Hyderabad, dated

17.7.2004 accepting the contention of the appellants that the provisions of A.P. Survey and Boundaries Act, 1923 are not applicable to the lands in question.

After having heard the learned counsel for the parties, we are of the considered view that the learned Single Judge was in error in passing the order impugned inasmuch as the learned Judge passed the order impugned without taking into consideration the crucial issues that arise for consideration i.e. the question whether the appellants can approbate and reprobate as they cannot in one breath say that the provision of A.P. Survey and Boundaries Act, 1923 apply for one purpose and do not apply for another purpose. So by accepting the request of the learned counsel for a remand, we remit the case to the learned Single Judge for fresh disposal, after setting aside the order impugned in this appeal.

The appeal is accordingly allowed and the case is remitted to the learned judge for fresh disposal according to law. Costs of this appeal will abide by the result of the writ petition.

G.S. SINGHVI, CJ

Date: 15th December, 2005

C.Y. SOMAYAJULU,J

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